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1 THE WITNESS: Page three, okay --

2 THE COURT: Mr. Solotaroff, are you referring to the
3 page three as stamped by ECF or page three on bottom right-hand
4 corner of these e-mails?

5 MR. SOLOTAROFF: Page three on the bottom right-hand
6 corner.

7 THE COURT: Just for the record, we're now looking at
8 a document that, as filed on ECF, is document 50-2, and on ECF
9 it is page 5 of 81 of that document. It so happens that the
10 document on the bottom right-hand corner bears the number page
11 3, but I'm giving you the ECF notification designation so that
12 there's no ambiguity about what's being referred to.

13 THE WITNESS: I'm lost.

14 THE COURT: At the end of this conference, by the way,
15 I'm going to direct that -- I think it's most reliable if I put
16 this on the SEC -- that all exhibits that have been referred to
17 or received in this hearing be put on the public docket of this
18 case.

19 Unfortunately, the way that this has proceeded, a
20 somewhat chaotic use of exhibits has been had. And it will be
21 very hard to reconstruct what was being referred to. And I
22 think, Mr. Roessner, I think you are in the position most
23 reliably to make sure that the ECF record of the case is
24 complete.

25 MR. ROESSNER: Your Honor, that's not a problem. The
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1 only issue that I want to bring forward is the CHIPS document
2 we had yesterday, the additional CHIPS records that we
3 received, I'd like to redact those.

4 THE COURT: I'm not discussing right now redactions.
5 I'm certainly open to proper redacting, if there is a
6 justification for it.

7 My point is that it doesn't appear that everybody has
8 put their records up on ECF. Mr. Kapur perhaps understandably
9 is less facile with the technology, but I think, as we've seen
10 here, Mr. Solotaroff, with respect, larding on additions to
11 documents in court is no way to create a clear record of what
12 has been filed. I'm going to ask that you coordinate with
13 Mr. Roessner, and that Mr. Roessner ultimately take
14 responsibility for making sure that the ECF record is clear and
15 distinct as to what each exhibit was. Okay?

16 MR. SOLOTAROFF: Yes.

17 THE COURT: Go ahead, Mr. Solotaroff.

18 MR. SOLOTAROFF: Judge, I'm just going to approach and
19 hand Mr. Kapur the relevant page of the document to refresh his
20 recollection, Judge.

21 THE COURT: Yes.

22 BY MR. SOLOTAROFF:

23 Q. Mr. Kapur, does that refresh your recollection that you
24 told MossFon that the source of the funds was your own savings
25 and earnings?

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1 A. I was just talking --

2 THE COURT: Mr. Kapur, it's a yes-or-no question. Did
3 you represent that to MossFon?

4 A. That my general source of funds were my savings, earnings
5 over the years from my past work experience and my businesses?

6 Q. Yes.

7 A. Correct.

8 Q. Okay. Now, what was the managed account platform, the
9 separate one that you launched, what was it called?

10 A. Could you repeat the question?

11 Q. Sure. You testified that there was a managed account
12 platform that you launched. What was it called?

13 A. As part of AIM Advisory Group?

14 Q. Yes.

15 A. We were setting up a standardized structure called the
16 diversified strategy managed account platform. So that was one
17 of the standardized products we were looking to launch. And
18 other than that, we had a full managed account program within
19 the AIM entity.

20 Q. And that was under the auspices of AIM Advisory Group?

21 A. Correct. That was the name of the company.

22 Q. If you could turn to the testimony in the big binder on
23 July 9, 2014. Turn to page 20.

24 Mr. Kapur, were you asked this question and did you
25 give this answer:

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1 "Q What's AIM Advisory Group, LLC?

2 "A It's Bina Rai's art business."

3 Was that your testimony?

4 A. That's correct.

5 Q. And if you turn to the next page, page 21, line 20. Do you
6 see that?

7 A. That's correct.

8 Q. Was this your testimony: Where did AIM Advisory Group get
9 its start-up capital from?

10 "A It was Ms. Rai's capital."

11 Do you see that?

12 A. I do.

13 Q. Now, I think one of the entities that you mentioned as a
14 private -- that was a managed account client was the Mangusta
15 group?

16 A. Correct.

17 Q. If you could turn back to page 11 --

18 THE COURT: Of what?

19 MR. SOLOTAROFF: Of same date, Judge. Sorry. July 9,
20 page 11.

21 Q. Are you there, Mr. Kapur?

22 A. Correct.

23 Q. And that was testimony under oath before the Court, right?

24 A. Page 11, all of it?

25 Q. The whole thing.

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1 A. Yes.

2 Q. Were you asked this question and did you give this answer:

3 "Q Well, what's that?

4 "A I believe the Mangusta group was catered for." Mangusta.

5 You spelled it.

6 "Q Who were they?

7 "A They are an institutional investor.

8 "Q That invested in ThinkStrategy?

9 "A In one of the funds, correct."

10 Was that your testimony?

11 A. That is, yes.

12 MR. SOLOTAROFF: I don't believe I have anything else,
13 Judge. Let me just check. Oh, yes, just a couple other
14 questions.

15 Q. Mr. Kapur, when you had a managed account client, clients
16 that you say you had, what paperwork would be filled out in
17 connection with opening up a managed account for a client, with
18 the client?

19 A. We would traditionally have a managed account agreement.

20 Q. And have you looked for any of these managed account
21 agreements that should exist, if what you're telling us is
22 true?

23 A. I haven't been asked to look for it, but I could look at
24 the files I have for it, sure.

25 THE COURT: Do you believe you have such records?

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1 THE WITNESS: At this point, no, your Honor.

2 MR. SOLOTAROFF: I don't have anything else, Judge.

3 THE COURT: Mr. Kapur, you've heard some redirect
4 examination from both lawyers. This now is your opportunity
5 for what's called recross-examination. What that means is to
6 the extent that there are subjects that you would like to
7 address responsive to the topics that have just been taken up
8 by Mr. Roessner and Mr. Solotaroff, you're at liberty to give
9 testimony as to that. Is there anything you would like to say
10 with respect to the questions or the topics that have just been
11 raised?

12 THE WITNESS: Yes, your Honor.

13 RECROSS EXAMINATION

14 THE WITNESS: Just to clarify a couple of things that
15 were implied by Mr. Solotaroff's questioning. I believe
16 Mangusta was a managed account client, as well as a fund
17 investor. They were one of the largest investors or larger
18 investors with our group.

19 In terms of the AIM Advisory Group company, that
20 company, once it wound down at the end of 2011, has an
21 investment management company. It was then open and available
22 to be used for any purpose or any sort of business. And
23 Ms. Rai used it as part of her art business structure.

24 THE COURT: Anything further?

25 THE WITNESS: No, your Honor.

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1 THE COURT: All right. Mr. Roessner, do you have any
2 reredirect?

3 MR. ROESSNER: No, your Honor.

4 THE COURT: Mr. Solotaroff, do you have any
5 reredirect?

6 MR. SOLOTAROFF: Just I'll ask one question. I'll ask
7 it from here.

8 REDIRECT EXAMINATION

9 BY MR. SOLOTAROFF:

10 Q. Mr. Kapur, have you reached out to the Mangusta group in
11 preparation for this hearing?

12 A. I have not.

13 MR. SOLOTAROFF: Nothing further, Judge.

14 THE COURT: Okay. Anything further from you,
15 Mr. Kapur?

16 THE WITNESS: No, your Honor.

17 THE COURT: You may step down.

18 (Witness excused)

19 THE COURT: Your testimony, at least as called by the
20 SEC, is complete.

21 All right. Mr. Roessner, you've now called three
22 witnesses and we've completed the examination of each. We've
23 also received per stipulation all the exhibits in your binder.

24 Does the SEC have anything further at this hearing?

25 MR. ROESSNER: No, your Honor.

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1 THE COURT: Mr. Solotaroff, again, apart from what's
2 already been received, including by stipulation, do you have
3 anything?

4 MR. SOLOTAROFF: No, Judge.

5 THE COURT: Mr. Kapur, at this point the hearing
6 pivots to you. Are there any witnesses you wish to call?

7 MR. KAPUR: No, your Honor.

8 THE COURT: Is there any additional testimony you wish
9 to give of your own?

10 MR. KAPUR: No, your Honor.

11 THE COURT: Are there any other exhibits you wish to
12 offer?

13 MR. KAPUR: No, your Honor.

14 THE COURT: So if I'm correct, no party has any
15 additional evidence they wish to offer at the hearing, correct?

16 MR. SOLOTAROFF: Yes, Judge, that's correct.

17 MR. ROESSNER: That's correct, your Honor.

18 THE COURT: One moment. (Pause)

19 Counsel, here I have a handful of things with respect
20 to next steps. It would benefit me to receive post-hearing
21 briefs from all sides. I'd like to make this expeditious, and
22 I think I can help focus you.

23 To my mind, the issue here really involves the third
24 of the Huber prongs: The issue of whether the alleged
25 contemnor, here Mr. Kapur, has clearly established his

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1 inability to comply with the terms of the order, in this case
2 meaning the final judgments in the SEC case, as well as the
3 Schwarz case.

4 I would welcome receiving -- and I'm going to set a
5 due date of next Friday, May the 29th -- briefs from each side
6 addressing that point. For my benefit, I think it would be
7 useful if the parties could break out, if you will, in
8 categories the evidence that has been received, such that, for
9 example, it seems to me that there have been a number of topics
10 that have been ventilated here.

11 There appear to be account or accounts at Bank
12 Sarasin. There appears to be an account at Bank Vontobel.
13 There's an engagement ring. There is the Porsche, which may be
14 a reopened issue. There are loans from family and friends. It
15 would benefit me, rather than putting this all together
16 holistically, for you to break out in your discussion what the
17 evidence has shown as to each of the various points. The
18 listing I just gave was not meant to be comprehensive. I'm
19 just saying that from my point of view, there's a lot that has
20 been received. And it will help me if you're able to break out
21 what the evidence has shown as to each of these particular
22 categories.

23 Mr. Kapur, I am mindful that you have been
24 representing yourself. Once again, you are at liberty to have
25 the assistance of counsel. I have found, as you know, that you

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1 do not qualify for court appointed counsel here. Just because
2 you appeared today without counsel doesn't mean that you have
3 waived your right to bring to bear counsel. I encourage you to
4 seek out counsel to assist you. It can only help you.

5 I also am mindful that in some of your testimony
6 yesterday and today you referred to the possibility of looking
7 for records of one sort or another. You made reference to your
8 tax returns. You also made reference to various accounts;
9 records, for example, relating to managed accounts. I
10 understand that your testimony has been, as to at least records
11 of your business and records of the managed accounts, that you
12 are pessimistic that you could, in fact, find any of those
13 records. But you've indicated you would like to look.

14 I'm going to ask you, if you have any records that are
15 responsive to any of the questions that have been asked, you
16 file those with the Court, with copies to your adversaries, by
17 next Wednesday, May the 27th. That way, in the unlikely but
18 not impossible event that there are responsive records that you
19 have, counsel will be able to take account of them in their
20 filings due May 29th.

21 It definitely would benefit me, for what it's worth,
22 if you're able to produce copies of your tax returns going all
23 the way back really to the year 2000. It seems to me that
24 inasmuch as an important issue here involves not so much assets
25 of the ThinkStrategy company's but of your own, you have not

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1 come forward with any evidence with respect to your income
2 during the last number of years. That is clearly at least a
3 relevant data point in reflecting on whether you have -- and
4 whether it's plausible that you don't have the assets to pay at
5 least some of the judgments here.

6 MR. KAPUR: Just from one point, your Honor, on the
7 tax return, I believe that while I will submit a full set of
8 tax returns from the year 2000, I believe --

9 THE COURT: 2000 going forward.

10 MR. KAPUR: 2000 going forward.

11 THE COURT: I don't mean just that year. I'm saying
12 that I'm trying to get a longer sense of your income earning.
13 It may be that your tax returns don't fully report all your
14 income, but I'm assuming anything you do report on your tax
15 returns was at least accurate, insofar as if you reported
16 income, at least that much you did receive. I am interested in
17 seeing going back to the year 2000 what income you reported.
18 It is relevant evidence to me in assessing your claim that you
19 have an inability to pay any of the judgments against you.

20 MR. KAPUR: Yes, your Honor. I would just note --

21 THE COURT: You do have your own tax returns, right?

22 MR. KAPUR: I do, but not going back all the way to
23 2000, your Honor. I have them probably going back to 2003
24 or --

25 THE COURT: Fine. Whatever you have would benefit me
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1 to have a copy of those. I want you to make a copy, though,
2 for each of your adversaries, okay?

3 MR. KAPUR: Yes, your Honor. I would just note that
4 Exhibit 9 that I submitted has my tax returns I believe from
5 2004 on.

6 THE COURT: Okay. Very good. Well, I'm not asking
7 you, then, to produce something that has already been produced.

8 MR. KAPUR: I see.

9 THE COURT: But, however, to the extent that it has
10 not been produced, I would be interested in receiving it.

11 All right. Mr. Roessner, I will ask you to take
12 responsibility just for making sure that the public record of
13 the case, meaning what's on ECF, contains each of the exhibits.
14 It probably would make sense for this to be done in the
15 following way: For you to have an attorney's declaration that
16 identifies using the exhibit numbers that were used here today,
17 each of the exhibits that at least to date is not yet up on
18 ECF. That way there will be a very clear record, should anyone
19 need to review the ruling in this case, exactly what evidence,
20 what exhibit -- the documents that each exhibit correspond to.

21 I want to set a next inperson conference in this case,
22 and I want to do it here and now, so that there is no doubt
23 that everyone will be here.

24 The next conference in the case in person will be set
25 for July the 7th at 3:30 p.m. That's a Tuesday.

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1 Mr. Kapur, you'll be able to attend that?

2 MR. KAPUR: Yes, your Honor.

3 THE COURT: Mr. Solotaroff?

4 MR. SOLOTAROFF: Yes, Judge, I'm open that day.

5 THE COURT: Mr. Roessner?

6 MR. ROESSNER: Yes, your Honor.

7 THE COURT: I expect all to be here that day.

8 Mr. Kapur, to the extent that you need to be contacted
9 by the Court or by counsel, I take it your e-mail address and
10 your residential address are unchanged; i.e., we can all
11 continue to reach you at those addresses?

12 MR. KAPUR: Yes, your Honor.

13 THE COURT: I expect that I will have a decision in
14 this case that issues in advance of the July 7th conference.
15 So keep a look out for it, Mr. Kapur. We will obviously, if a
16 decision issues before then, get it to you both by e-mail, as
17 well as at your address, okay?

18 Are you on ECF, Mr. Kapur?

19 MR. KAPUR: No, your Honor. I did fill out a form and
20 the -- in the pro se office, but I haven't received anything
21 from ECF.

22 THE COURT: I would encourage you to go to the pro se
23 office to find out why it is that you're not gaining access to
24 ECF. It shouldn't be hard.

25 That said, the parties continue to be directed to make
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1 sure that any ECF filings be sent to Mr. Kapur promptly by
2 e-mail and by hard copy.

3 Mr. Kapur, let me say one thing to you. I am going to
4 reserve judgment in this case until I receive the parties'
5 post-hearing briefs, but I don't want to leave you with any
6 misunderstanding about the following: There is a very
7 substantial chance that I will rule against you in this case.
8 There is a very substantial chance that I will find you in
9 contempt and find, therefore, that the sanction requested here
10 of incarceration by the SEC is merited as a means of compelling
11 you to disgorge the money that you are owed to the SEC. I am
12 putting you on notice that there is a substantial likelihood of
13 that, based on what I have heard. Again, I'm going to reflect
14 on the post-hearing briefs, but I think there is value in my
15 saying that to you now.

16 You have a very significant interest in paying the
17 judgments against you. I understand that you have taken the
18 position in court that you have no money; that the various
19 evidence with respect to Swiss bank accounts and the like
20 references somebody else's money other than yours. You've also
21 admitted as to the engagement ring that your family is holding
22 \$92,000 in proceeds, or, rather, proceeds of the sale of that
23 ring.

24 Whatever the assets are, I'm saying the following to
25 you: It is in your interest, whatever you have said in court

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1 denying your access to that money, to start finding a way to
2 get that money together; because there is a very substantial
3 likelihood that I'm going to find against you and enter the
4 contempt sanction and put you in jail as a means of spurring
5 you to comply with the Court's outstanding orders.

6 I'm not seeking a comment from you now. I'm just
7 simply putting you on notice, because I'm aware that it may
8 take some time for you to free up those moneys. It is
9 significantly in your interest to start working on that now.

10 I'm not asking for a commentary. Do you understand,
11 though, what I have said?

12 MR. KAPUR: Yes, your Honor.

13 THE COURT: Very good. Is there anything further from
14 plaintiff?

15 MR. SOLOTAROFF: Yes, Judge. Two things. One, given
16 what the Court just said, I would ask that the Court order
17 Mr. Kapur to surrender his passport to the Court or to pretrial
18 services or some court entity that would be appropriate.

19 THE COURT: Mr. Kapur, where is your passport?

20 MR. KAPUR: At my residence, your Honor.

21 THE COURT: Where?

22 MR. KAPUR: At home.

23 THE COURT: I'm going to ask you tomorrow to bring in
24 your passport and to supply it to my chambers.

25 One moment. Ms. Hummel? (Pause)

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1 Mr. Kapur, you are to bring your passport and any
2 other travel documents to the Court tomorrow. There will be my
3 law clerks in chambers to receive it. But I think
4 Mr. Solotaroff's point is well taken, that I don't want you to
5 feel the temptation to avoid the authority or attempt to avoid
6 the authority of this Court by using your travel documents to
7 leave the country.

8 I see you shaking your head, and I understand you are
9 representing that, of course, you wouldn't do so. But I have
10 seen others succumb to that temptation under similar
11 circumstances.

12 Do you understand?

13 MR. KAPUR: Yes, your Honor.

14 THE COURT: By noon tomorrow, please bring your
15 passport and any travel documents to my chambers. We will hold
16 them for safekeeping.

17 Thank you, Mr. Solotaroff. Good suggestion.

18 MR. SOLOTAROFF: And one housekeeping suggestion is
19 that just so that -- Mr. Kapur may not understand this. He
20 probably needs to call your chambers from downstairs, because
21 certainly the marshals are not going to let him --

22 THE COURT: That's correct. Mr. Kapur, when you
23 arrive in this building, explain that you need to contact my
24 chambers. One of my law clerks will be able to come down and
25 retrieve the passport from you at security.

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1 MR. SOLOTAROFF: Secondly, Judge, I also ask that you
2 order Mr. Kapur to not apply for another passport prior to the
3 hearing on July 7th, and that your Honor make that order in a
4 way that the SEC and I can send the order to the passport
5 authorities so that they understand that.

6 THE COURT: Yes. I will issue a written order today
7 that recites the fact that we have directed Mr. Kapur to
8 provide his passport to my chambers for safekeeping by noon
9 tomorrow, and that Mr. Kapur is directed not to seek to apply
10 for a passport or other international travel documents, pending
11 the Court's hearing on July the 7th.

12 MR. SOLOTAROFF: And then finally, Judge, I would just
13 like the opportunity -- and I'm not sure I'm going to make use
14 of it, but if either the SEC or the Schwarzes want to submit
15 our own additional documents, that we also have the opportunity
16 to do it by, I guess, the 27th.

17 THE COURT: Mr. Solotaroff, the record of the
18 conference is closed. The hearing is closed. Mr. Kapur made
19 reference in response to your examination questions and that of
20 Mr. Roessner to the possibility that he has some documents that
21 are responsive to your questions. He is pro se, and I think it
22 is the right outcome for him to have the opportunity to look
23 for those documents.

24 In the event that those documents unexpectedly both
25 are produced and prompt the need to reopen the hearing, you're

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1 at liberty to try that. But you're an admitted attorney. The
2 time for you to present evidence on this is over, unless there
3 is some issue that is fairly opened by the documents that
4 Mr. Kapur may present.

5 Is there something specific you have in mind? We have
6 to stop this eventually.

7 MR. SOLOTAROFF: The only specific thing was -- and I
8 think they've been even submitted before, but there are
9 ThinkStrategy audit reports which show the fees that the
10 capital management company earned over the years. I would
11 think that that would be --

12 THE COURT: Is that part of the trial record from the
13 ThinkStrategy, from the Schwarz trial?

14 MR. SOLOTAROFF: It might be, Judge.

15 THE COURT: If it's part of that record, that's fine.
16 Then it's already within the scope of the record of the case.

17 But there was an opportunity to present evidence. I
18 think the time has passed, unless it is fairly responsive to a
19 door opened by Mr. Kapur's post-hearing evidence.

20 MR. SOLOTAROFF: That's fine, Judge.

21 THE COURT: Anything further from you, Mr. Solotaroff?

22 MR. SOLOTAROFF: No, Judge.

23 THE COURT: Anything from you, Mr. Roessner?

24 MR. ROESSNER: The only point is that Exhibit 7, the
25 new expanded version, if I can just get a copy of that. And I

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